

Message Text

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ACTION SCS-03

INFO OCT-01 ARA-10 ISO-00 SCA-01 DHA-02 H-01 L-03

/021 W

-----116043 282032Z /64

P 281933Z JUN 77

FM AMEMBASSY SANTIAGO

TP SECSTATE WASHDC PRIORITY 5430

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E. O. 11652: N/A

TAGS: CASC, CGEN, CI: (PROTECTION OF US OWNED PROPERTY)

SUBJECT: W/W PROTECTION OF SAILING YACHT "GOOD SHIP GRACE"

REF: SANTIAGO 5260 AND PREVIOUS

1. THE PORT CAPTAIN AT VALPARAISO HAS ADVISED THAT THE GOOD SHIP GRACE SUFFERED EXTENSIVE DAMAGE IN A STORM DURING THE NIGHT OF JUNE 26. HE STATED THAT HE HAS PLACED THE GRACE UNDER THE CUSTODY OF SALVAMAR, A COMMERCIAL SHIPYARD IN VALPARAISO. THE EMBASSY PREVIOUSLY REPORTED THAT THE VALPARAISO PORT AUTHORITIES WERE GROWING IMPATIENT WITH THE ENTIRE GRACE INCIDENT, PROBABLY SINCE GUARDS HAD TO BE PUT ABOARD. THE PORT CAPTAIN MENTIONED INTERESTINGLY ENOUGH THAT MANY INBOARD ARTICLES HAD BEEN WASHED OVERBOARD IN THE STORM PRIOR TO THE TURNOVER. AS SALVAMAR SHIPYARDS INFORMED US THAT STRUCTURAL STORM DAMAGE TO THE GRACE WAS SLIGHT, THE PORT CAPTAIN'S MOVE APPEARS TO BE A FURTHER WASHING OF HANDS BY CHILEAN AUTHORITIES.

2. WE ARE CONTINUING TO MONITOR THE LEGAL MOVES BY THE CHAVEZ BROTHERS TO GAIN CONTROL OF THE GRACE. AS REPORTED PREVIOUSLY, A HEARING WAS HELD ON JUNE 24. THE CONSULATE HAS NOW CONTACTED THE PUBLIC DEFENDER ASSIGNED TO THE CASE, WHO RATHER APOLOGETICALLY OFFERED THAT SHE PRIVATELY FELT THE GRACE WAS A LOST CAUSE. SHE WAS ORDERED TO UNDERTAKE THE DEFENSE ON JUNE 20 AND GIVEN LESS THAN FOUR DAYS TO RESEARCH THE TORTURED ODYSSEY OF THE GRACE

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SINCE THE STORM OFF EASTER ISLAND IN APRIL. SHE SUBMITTED A MOTION TO DISMISS OR POSTPONE THE CLAIM ON JUNE 24 BASED UPON THE FOLLOWING POINTS: 1) THE INCOMPETENCE OF A VALPARAISO LABOR COURT TO JUDGE A CLAIM WHOSE PROPER JURISDICTION SHOULD BE EASTER ISLAND; 2) THE INCOMPETENCE OF A LABOR COURT TO TRY A CASE INVOLVING THE AWARD OF SALVAGE RIGHTS, AND; 3) SHE REQUESTED A POSTPONEMENT OF 20 TO 30 DAYS TO STUDY THE CASE AND CONSULT WITH GARRETT.

MOTIONS (1) AND (2) ARE BEING STUDIED AND MOTION (3) WAS DENIED. FYI. THE CONSULATE UNOFFICIALLY INQUIRED AS TO POSTPONEMENT OF LEGAL PROCEEDINGS IN A TELCON WITH JUDGE ON JUNE 23 BUT WAS INFORMED BY THE JUDGE THAT SINCE A PUBLIC DEFENDER HAD ALREADY BEEN APPOINTED, SHE SAW NO REASON TO PROLONG A HEARING.

3. ON JULY 4 ANOTHER HEARING WILL BE HELD ON MOTIONS (1) AND (2). IF THE PUBLIC DEFENDER SUCCEEDS IN OBTAINING A CHANGE OF VENUE AND COURTS, THIS MAY AUTOMATICALLY RESULT A DELAY ENABLING GARRETT ET AL TO SECURE PRIVATE LEGAL COUNSEL. IF THESE MOTIONS ARE DENIED, IT COULD RESULT IN A DECISION AGAINST GARRETT WITHIN ONE MONTH ACCORDING TO THE DEMORALIZED PUBLIC DEFENDER.

4. THE EMBASSY IS COGNIZANT OF OUR RESPONSIBILITIES TO PROTECT US PROPERTY BUT RESTRAINED BY REGULATIONS PROHIBITING INTERVENTION IN ESSENTIALLY PRIVATE LEGAL MATTERS. WE NEVERTHELESS FEEL AN OBLIGATION TO PREVENT THE LOSS OF A 110-FOOT, \$300,000 VESSEL SEEMINGLY ABOUT TO BE FORFEITED DUE TO LACK OF COORDINATION BY HER US OWNERS. THE INABILITY OF THE PRINCIPAL INVESTOR OR OWNER (GARRETT) TO RETURN TO CHILE IS DUE TO A PASSPORT RESTRICTION IN TURN RESULTING FROM HIS ACCEPTANCE OF A REPATRIATION LOAN.

5. EVERY EFFORT HAS BEEN MADE BY THE CONSULATE (COLLECT CALLS SINCE JUNE 3 TOTAL FOUR) TO ENCOURAGE GARRETT TO RESOLVE THE US OWNERSHIP PROBLEMS WITH LOCAL AUTHORITIES.

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6. SEVERAL CHILEAN INFORMANTS CLAIM THAT TIMOTHY OLDFATHER SECURED AND PERHAPS ALTERED A LIMITED POWER OF ATTORNEY ISSUED BY GARRETT WHILE GARRETT WAS IN THE HOSPITAL IN VALPARAISO. ACCORDING TO A NEWSPAPERWOMAN IN VALAPRAISO, WHO IS RAPIDLY WINNING HER SPURS WITH THE UNPROVEN TALE, OLDFATHER ALLEGEDLY DOCTORED AN AFFIDAVIT ISSUED TO HIM BY GARRETT STATING HE (OLDFATHER) HAD POWER TO "SAIL" THE VESSEL (FROM EASTER ISLAND) IF NECESSARY, TO READ THAT OLDFATHER WAS QUTHORIZED TO "SELL" RPT SELL THE YACHT. THE STORY WAS PROBABLY NOT LOST ON THE COURT, CHAVEZ (WHO WAS IN TURN ISSUED A POWER OF ATTORNEY BY OLDFATHER TO SELL THE GRACE), THE PORT CAPTAIN AT VALPARAISO, NOR OTHER INTERESTS IN CHILE WHO MAY NOW CONSIDER THE GRACE FAIR GAME. THIS MATTER IS TANGENTIAL TO THE CHAVEZ CLAIMS BUT IS CONSIDERED IMPORTANT ENOUGH TO THE PUBLIC DEFENDER THAT SHE ADVISED THAT IF GARRETT EVER RETURNS TO CHILE HE SHOULD BRING THE ORIGINAL OF THE POWER OF ATTORNEY ISSUED TO OLDFATHER TO SPOW THAT OLDFATHER LATER DOCTORED IT IN ENGLISH THEN SECURED A SWORN TRANSLATION BASED UPON THE ALLEGED COUNTERFEIT. IN THE PRESS CHAVEZ AND THE OTHER LITIGANTS HAVE MORALLY JUSTIFIED THEIR CLAIMS ON THE GRACE BASED UPON THAT DOCUMENT, CITING THE PERCEIVED DUPPLICITY OF GARRETT AND THE PERIOLS OF THEIR 31-DAY ORDEAL IN THE PACIFIC

AS THE TRANSCENDENTAL MOTIVATION FOR LEGAL MOVES AIMED AT
"COMPENSATION".

7. THE EMBASSY IS RELUCTANT TO MAKE ANY FORMAL DEMARCHE OR
CLARIFICATION OF OWNERSHIP TO THE COURT DUE TO THE SEEMING
PROBABILITY OF SUBSEQUENT CHARGES OF HAVING DEFENDED THE INTERESTS
OF ONE US CITIZEN AT THE EXPENSE OF ANOTHER. BASED UPON ALL
AVAILABLE INFORMATION THE CONSULATE BELIEVES THAT ONLY PROMPT
RESOLUTION OF THE IMBROGLIO BETWEEN GARRETT, OLDFATHER, CAL LEE,
AND OTHER INVESTORS IN THE US WILL SAVE THE GRACE.

8. THE DEPARTMENT IS REQUESTED TO TRANSMIT THE GENERAL RPT
GENERAL OUTLINES OF THE ABOVE SCENARIO TO ALL PARTIES CONCERNED,
AND ADVISE THE EMBASSY OF ANY MOVES WHICH MIGHT BE UNDERTAKEN
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BY THE CONSULATE TO SAVE THE GOOD SHIP GRACE.
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Message Attributes

Automatic Decaptoning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
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Decapton Date: 01-Jan-1960 12:00:00 am
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977SANTIA05326
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770231-0138
Format: TEL
From: SANTIAGO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770610/aaaaaiwv.tel
Line Count: 138
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: fa048072-c288-dd11-92da-001cc4696bcc
Office: ACTION SCS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 SANTIAGO 5260
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 30-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1993762
Secure: OPEN
Status: NATIVE
Subject: W/W PROTECTION OF SAILING YACHT \"GOOD SHIP GRACE\"
TAGS: CASC, CGEN, CI
To: STATE
Type: TE
vdkgvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/fa048072-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009